

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jessica Welker	Team: Team # 4	CCRB Case #: 201003727	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 03/16/2010 8:50 PM	Location of Incident: 90 Bennett Street	Precinct: 34	18 Mo. SOL 9/16/2011	EO SOL 9/16/2011	
Date/Time CV Reported Thu, 03/18/2010 12:00 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 03/22/2010 11:03 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. SGT Neil Zuber	04696	931483	034 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM John Hewitt	00676	941901	034 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Neil Zuber	Force: Sgt. Neil Zuber used physical force against § 87(2)(b) [REDACTED]	[REDACTED]

### Case Summary

On March 17, 2010, Sgt. Neil Zuber of the 34<sup>th</sup> Precinct called IAB and filed a complaint on behalf of § 87(2)(b) (encl. 4a-4d). On March 22, 2010, the case was referred to the CCRB (encl. 5a-5b).

On March 16, 2010, PO John Hewitt and Sgt. Neil Zuber of the 34<sup>th</sup> Precinct approached § 87(2)(b) at 90 Bennett Street. The following resulted:

- **Allegation A:** Sgt. Neil Zuber used physical force against § 87(2)(b) § 87(2)(g)

### Results of Investigation

#### Civilian Statements

##### Complainant/Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b)-old Hispanic male with brown hair and brown eyes. He is 5'7" tall and weighs 156 pounds.

#### CCRB Statement

On April 12, 2010, the CCRB interviewed § 87(2)(b) (encl. 6a-6g). § 87(2)(b) denied spraying graffiti on March 16, 2010. On March 16, 2010, two officers, identified by the investigation as PO John Hewitt and Sgt. Neil Zuber of the 34<sup>th</sup> Precinct, approached § 87(2)(b) at 90 Bennett Street in Manhattan and told him to stop. As soon as § 87(2)(b) stopped, PO Hewitt told him to put his hands against the wall, which he did. PO Hewitt pushed § 87(2)(b)'s head against the wall. The left side of § 87(2)(b)'s face hit the wall and he immediately began bleeding from his left eyebrow area. § 87(2)(b) did not move, resist, or struggle with the officers. After he was pushed against the wall, the officers handcuffed him. § 87(2)(b) was arrested for obstructing governmental administration and spraying graffiti. § 87(2)(b) was taken to § 87(2)(b) while he was in police custody. He received glue for a laceration over his left eye.

**Witness:** § 87(2)(b)

#### Phone Statement

On June 9, 2010, the CCRB spoke with § 87(2)(b) over the phone. § 87(2)(b) is a § 87(2)(b). On March 16, 2010, § 87(2)(b) was on patrol and he saw a Hispanic male spray painting on a wall. Sgt. Zuber approached the male and he ran away. The officer initially chased him and then followed him on a marked scooter. § 87(2)(b) was not present when the male was apprehended or handcuffed (encl. 7).

#### Attempts to Contact Civilians

The IAB report indicates that IAB interviewed § 87(2)(b) as a witness in this case. § 87(2)(b) told IAB that from his apartment at § 87(2)(b) he observed Sgt. Zuber chasing § 87(2)(b) from West 186<sup>th</sup> Street to Bennett Street. Sgt. Zuber caught up to § 87(2)(b) and put him against the wall at 90 Bennett Street. The IAB log did not include any contact information for § 87(2)(b). A White Pages search, DMV search, and Lexis Nexis search revealed negative results for an apartment number or phone number for § 87(2)(b). The CCRB was therefore unable to contact § 87(2)(b) to obtain a statement (encl. 14b).

### **NYPD Statements:**

#### **Subject Officer: SGT. NEIL ZUBER**

- *Sgt. Zuber is a § 87(2)(b)-old white male with blonde hair and green eyes. He is 6'2" tall and weighs 190 pounds.*
- *On March 16, 2010, Sgt. Zuber was scheduled to work conditions with PO Hewitt from 3:10 p.m. to 11:57 p.m. He was dressed in uniform and assigned to a marked scooter.*

### **Memo Book**

Sgt. Zuber has the following memo book entries regarding this incident: "2050: 1 under at 90 Bennett by PO Hewitt, for § 87(2)(b). 2055: exported to SH by condition van."

### **CCRB Statement**

On July 16, 2010, the CCRB interviewed Sgt. Neil Zuber of the 34<sup>th</sup> Precinct (encl. 8a-8f). On March 16, 2010, Sgt. Zuber observed § 87(2)(b) spraying graffiti on the wall of 4337 Broadway. Sgt. Zuber immediately exited his vehicle and approached § 87(2)(b) § 87(2)(b) ran and Sgt. Zuber chased him down Broadway and towards Bennett Street for five to six blocks. Sgt. Zuber entered the scooter with PO Hewitt for less than a minute to get closer to § 87(2)(b) and then continued to chase him on foot. While he was chasing § 87(2)(b) Sgt. Zuber yelled, "Police, stop." Finally at 90 Bennett Street, Sgt. Zuber grabbed § 87(2)(b) by his sweater and put him against the wall. § 87(2)(b) tried to turn around several times, but Sgt. Zuber held his hand against his shoulders to keep him against the wall. Sgt. Zuber did not recall who handcuffed him. He did not push § 87(2)(b) against the wall. He did not push § 87(2)(b)'s head against the wall. After he was handcuffed, Sgt. Zuber noticed that § 87(2)(b) had a laceration over his eye. He did not know how he sustained this injury. In his initial statement to IAB, Sgt. Zuber said that § 87(2)(b) sustained the laceration as a result of being put up against the wall. As soon as Sgt. Zuber arrived at the stationhouse, he called EMS for § 87(2)(b).

#### **Witness Officer: PO JOHN HEWITT**

- *PO Hewitt is a § 87(2)(b)-old white male with black hair and brown eyes. He is 5'10" tall and weighs 195 pounds.*
- *On March 16, 2010, PO Hewitt was scheduled to work conditions with Sgt. Zuber from 3:10 p.m. to 11:57 p.m. He was dressed in uniform and assigned to a marked scooter.*

### **CCRB Statement**

On June 25, 2010, the CCRB interviewed PO John Hewitt of the 34<sup>th</sup> Precinct. PO Hewitt had no recollection of this incident (encl. 9a-9d).

## **NYPD Documents**

### **OLBS**

The OLBS indicates that officers observed § 87(2)(b) spray graffiti at 4337 Broadway (encl. 10b-10c)

### **Arrest Photo**

The arrest photo of § 87(2)(b) depicts a bandage over his left eye (encl. 10d).

### **Summons/Arrest for Incident and Disposition**

- § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Status of Civil Proceedings**

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of August 10, 2010 with regard to the incident (encl. 13a).

### **Civilian Criminal History**

- § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Civilian CCRB History**

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 3).

### **Subject Officer CCRB History**

- Sgt. Zuber has been a member of the service for eight years and there are no substantiated CCRB allegations against him (encl. 2).

## **Conclusion**

### **Identification of Subject Officer**

- § 87(2)(g) In his initial statement to IAB, Sgt. Zuber admitted that § 87(2)(b) sustained a laceration over his left eye as a result of the force that he used against him. Sgt. Zuber also admitted in his CCRB statement that he had physical contact with § 87(2)(b) § 87(2)(g)

### **Investigative Findings and Recommendations**

#### **Allegation A: Sgt. Neil Zuber used physical force against § 87(2)(b)**

§ 87(2)(g) refused to stop and ran several blocks before Sgt. Zuber was able to apprehend him. Patrol Guide Procedure 203-11 requires all members of the service at the scene of a police incident to use

minimum necessary force to affect an arrest (encl. 1a-1b). § 87(2)(g) [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

\_\_\_\_\_

Team: \_\_\_\_\_

:

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date